

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SOLOMON ELLISON,	:	
	:	
Petitioner,	:	CIVIL ACTION NO. 19-1835
	:	
v.	:	
	:	
ROBERT GILMORE, Superintendent, THE	:	
DISTRICT ATTORNEY OF THE	:	
COUNTY OF DELAWARE, and THE	:	
ATTORNEY GENERAL OF THE STATE	:	
OF PENNSYLVANIA,	:	
	:	
Respondents.	:	

ORDER

AND NOW, this 10th day of December, 2019, after considering the petition for a writ of habeas corpus under 28 U.S.C. § 2254 filed by the *pro se* petitioner, Solomon Ellison (Doc. No. 2), the motion to stay filed by the petitioner (Doc. No. 3), the response to the motion to stay and to the petition filed by the respondents (Doc. No. 7), and United States Magistrate Judge Marilyn Heffley's report and recommendation (Doc. No. 10); and no party having filed objections to the report and recommendation; accordingly, it is hereby **ORDERED** as follows:

1. The clerk of court is **DIRECTED** to **REMOVE** this action from civil suspense and **RETURN** it to the court's active docket;
2. The Honorable Marilyn Heffley's report and recommendation (Doc. No. 10) is **APPROVED** and **ADOPTED**;¹

¹ Since neither party filed objections to Magistrate Judge Heffley's report and recommendation, the court need not review the report before adopting it. *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987). Nonetheless, "the better practice is for the district judge to afford some level of review to dispositive legal issues raised by the report." *Id.* As such, the court will review the report for plain error. See *Oldrati v. Apfel*, 33 F. Supp. 2d 397, 399 (E.D. Pa. 1998) ("In the absence of a timely objection, . . . this Court will review [the magistrate judge's] Report and Recommendation for clear error." (internal quotation marks omitted)). The court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). The court has reviewed Magistrate Judge Heffley's report for plain error and has found none.

3. The motion to stay (Doc. No. 3) is **DENIED**;
 4. The petition for a writ of habeas corpus (Doc. No. 2) is **DISMISSED WITHOUT PREJUDICE**;
5. The petitioner has not made a substantial showing of the denial of a constitutional right and is therefore not entitled to a certificate of appealability, 28 U.S.C. § 2253(c)(2); and
6. The clerk of court shall mark this case as **CLOSED**.

BY THE COURT:

/s/ *Edward G. Smith*
EDWARD G. SMITH, J.